

PATENT COOPERATION TREATY

PCT

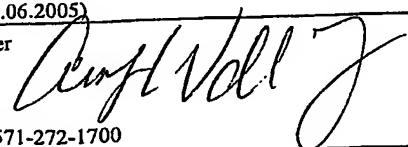
REC'D 04 JUL 2005

WIPO

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 04-458PCT	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/US04/32038	International filing date (day/month/year) 29 September 2004 (29.09.2004)	Priority date (day/month/year) 29 September 2003 (29.09.2003)	
International Patent Classification (IPC) or national classification and IPC IPC(7): H01M 008/12 and US Cl.: 429/32			
Applicant UTC FUEL CELLS, LLC			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) ___ , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> <p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 			
Date of submission of the demand 02 May 2005 (02.05.2005)	Date of completion of this report 22 June 2005 (22.06.2005)		
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450	Authorized officer John S. Maples  Telephone No. 571-272-1700		

Facsimile No. (703) 305-3230

Form PCT/IPEA/409 (cover sheet)(January 2004)

BEST AVAILABLE COPY

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/32038

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

- This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- the international application as originally filed/furnished
- the description:
pages 1-9 as originally filed/furnished
pages* NONE received by this Authority on _____
pages* NONE received by this Authority on _____
- the claims:
pages 10-13 as originally filed/furnished
pages* NONE as amended (together with any statement) under Article 19
pages* NONE received by this Authority on _____
pages* NONE received by this Authority on _____
- the drawings:
pages 1-3 as originally filed/furnished
pages* NONE received by this Authority on _____
pages* NONE received by this Authority on _____
- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

- the description, pages _____
- the claims, Nos. _____
- the drawings, sheets/figs _____
- the sequence listing (*specify*): _____
- any table(s) related to the sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- the description, pages _____
- the claims, Nos. _____
- the drawings, sheets/figs _____
- the sequence listing (*specify*): _____
- any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US04/32038**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims <u>9, 10, 14-16</u>	YES
	Claims <u>1-8, 11-13, 17</u>	NO
Inventive Step (IS)	Claims <u>9, 10, 14-16</u>	YES
	Claims <u>1-8, 11-13, 17</u>	NO
Industrial Applicability (IA)	Claims <u>1-17</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and Explanations (Rule 70.7)

Claims 1-8, 11-13, 17 lack novelty under PCT Article 33(2) as being anticipated by BADDING ET AL. See Example 1 of BADDING ET AL. along with Figures 2-4, 8, 9 and paragraphs 0018, 0044, 0055-0057 and 0099-0101. These portions of BADDING ET AL. teach a solid oxide fuel cell including an anode and cathode side frame 30 with an anode and a cathode therein that are sealed within the frame-see paragraphs 0099-0101. As set forth in paragraph 0018, there are bipolar interconnects between the various fuel cells within a stack. The components in BADDING ET AL. are all compliant with one another because the same do not undergo degradation upon pressure or force applied to the fuel cell stack.

Claims 9-10 and 14-16 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the anode and the cathode side frames each having a plurality of openings within which the seals and the fuel cells are located. The art also does not show the cooling fluid channels carrying out the endothermic processes nor the anode or the cathode seals being floating seals.

Claims 1-17 meet the criteria set out in PCT Article 33(4), and thus the solid oxide fuel cell has industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

BEST AVAILABLE COPY